

Message Text

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ACTION STR-07

INFO OCT-01 ARA-10 IO-13 ISO-00 STRE-00 AGRE-00 CEA-01
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INT-05 L-03 LAB-04 NSAE-00 NSC-05 PA-01 CTME-00
AID-05 SS-15 ITC-01 TRSE-00 ICA-11 SP-02 SOE-02
OMB-01 DOE-15 XMB-02 OPIC-03 JUSE-00 /129 W
-----071687 111702Z /43

R 111525Z MAY 78
FM AMEMBASSY BRASILIA
TO SECSTATE WASHDC 7459
INFO USMISSION GENEVA
AMEMBASSY CARACAS
AMEMBASSY MEXICO
AMEMBASSY BUENOS AIRES
AMCONSUL SAO PAULO
AMCONSUL RIO DE JANEIRO

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PASS STR ELECTRONICALLY

GENEVA FOR MTN

E.O. 11652: N/A
TAGS: ETRD, MTN, BR
SUBJ: US/BRAZIL SUB-GROUP ON TRADE (AFTERNOON SESSION, MAY 8)

1. SUMMARY. AFTERNOON SESSION OF FIRST DAY OF US-BRAZIL
SUB-GROUP ON TRADE FOCUSED ON FURTHER DISCUSSIONS OF BRAZIL'S
GUIDELINES FOR PREPARATION OF ITS OFFER AND THEIR IMPACT ON
US REQUEST LIST, OPERATION OF BRAZIL'S IMPORT LICENSE
SYSTEM AS IT WOULD RELATE TO MTN TARIFF CONCESSIONS, GATT
REFORM, AND SUBSIDIES/CVD CODE. US EMPHASIZED NECESSITY
FOR BRAZIL TO BE RESPONSIVE TO US REQUESTS AND IN GENERAL
TO BE FORTHCOMING IN MTN OR RISK REDUCTION IN US
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OFFERS OF INTEREST TO BRAZIL. WE STRESSED THAT FAILURE
OF MTN EXERCISE WAS IN NO ONE'S INTEREST. DISCUSSION OF
GATT REFORM (LARGELY ENABLING CLAUSE AND GSP) FINDINGS AND
SUBSIDIES/CVD CODE SHOWED THAT TWO SIDES WERE STILL FAR
APART IN THEIR FORMAL POSITIONS. FOLLOWING DISCUSSIONS
DURING MINISTERIAL CALLS AND INFORMAL EVENTS, IT BECAME
EVIDENT THAT BRAZILIANS HAD MORE GIVE IN THEIR POSITIONS

THAN THEIR FORMAL POSITIONS INDICATE. US STRESSED URGENCY OF FORWARD MOVEMENT IN MTN NEGOTIATIONS IN ORDER TO BE ABLE TO PRESENT MTN RESULTS TO CONGRESS BEFORE US POLITICAL MOOD BECAME TOTALLY UNRECEPTIVE TO TRADE LIBERALIZATION. END SUMMARY.

2. BRAZILIAN MTN NEGOTIATING GUIDELINES. AMB. WOLFF (STR) SAID US REGARDED BRAZIL'S DEVELOPMENT OF GENERAL GUIDELINES FOR PREPARING ITS OFFER (SEE CABLE REPORT ON MORNING SESSION) AS A POSITIVE STEP. HE URGED THAT GUIDELINES BE USED FLEXIBLY, SINCE AS DESCRIBED THEY WOULD NOT LEAD TO ADEQUATE RESPONSES TO US REQUESTS. THE MAINTENANCE OF US OFFERS OF INTEREST TO BRAZIL WOULD DEPEND ON BRAZIL'S MEETING US REQUESTS. IF THIS DID NOT PROVE TO BE POSSIBLE FROM THE BRAZILIAN POINT OF VIEW, US WOULD HAVE NO CHOICE BUT TO REDUCE THE SCOPE OF ITS OFFER; TO DO OTHERWISE WOULD BE POLITICALLY UNACCEPTABLE IN THE US.

3. BOTAFOGO (GOB FONMIN) TOOK POSITION THAT US LIST "DID NOT CORRESPOND TO BRAZIL'S POSSIBILITIES" IN REGARD TO ITS OWN DOMESTIC PRESSURES AND ITS DEVELOPMENT PLANS. HE SAID THAT IT WAS TO BE EXPECTED THAT BRAZIL COULD NOT MEET ALL US REQUESTS, ESPECIALLY GIVEN THE GREAT DEPTH OF CUTS REQUESTED BY US WHICH HE ASSERTED WERE GREATER THAN US HAS OFFERED TO DCS. BOTAFOGO FURTHER SAID THAT GOB ACTIVITY IN THIS AREA WAS COMPLICATED BY THE FACT THAT LIMITED OFFICIAL USE

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BRAZIL EXPECTED IMPORTANT BENEFITS FROM THE NON-TARIFF AND NORMATIVE ASPECTS OF THE MTN, AND THEREFORE FOUND IT EXTREMELY DIFFICULT TO OFFER CONCRETE AND SIGNIFICANT TARIFF CONCESSIONS UNTIL THE SCOPE OF BRAZIL'S BENEFITS FROM OTHER AREAS OF MTN WAS KNOWN.

4. HARTZELL (USMTN) RECALLED LAST US-BRAZIL ARTICLE XVIII DISCUSSIONS IN GENEVA, WHERE BRAZIL INDICATED VIRTUALLY NO POSSIBILITY OF CONCESSIONS BECAUSE OF DOMESTIC PRODUCTION AND DEVELOPMENT PLANS. HE SOUGHT CONFIRMATION THAT NEW GUIDELINES REPRESENTED GENUINE DEPARTURE FROM THAT POSITION AND WOULD THUS LEAD TO RESULTS. BRAZILIANS RESISTED THAT CHARACTERIZATION BUT SUBSEQUENTLY, PRIVATELY, CONFIRMED THAT THE NEW APPROACH WAS A SIGNIFICANT CHANGE WHICH HAD BEEN APPROVED IN MINISTERIAL SESSION ONLY THE PREVIOUS FRIDAY.

5. BRAZIL'S IMPORT LICENSE SYSTEM AND MTN CONCESSIONS. THERE WAS INTENSIVE DISCUSSION REGARDING BRAZIL'S IMPORT LICENSE SYSTEM AND THE US CONCERN THAT TARIFF CONCESSIONS WON IN THE MTN COULD BE NEGATED BY BRAZIL'S REFUSAL TO GRANT IMPORT LICENSES. PROENCA ROSA (GOB FONMIN) AND

BOTAFOGO BOTH ATTEMPTED TO EXPLAIN THAT EXCEPT IN

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FM AMEMBASSY BRASILIA

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INFO USMISSION GENEVA

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THREE SPECIFIC SECTORS (STEEL AND NON-FERROUS METAL PRODUCTS, COMPUTERS, AND AIRCRAFT), GOB IMPORT LICENSES ("PERMITS") WERE AUTOMATICALLY GRANTED AND WERE USED FOR STATISTICAL PURPOSES RATHER THAN TO RESTRAIN TRADE. IN THE THREE SECTORS, LICENSES WERE DISCRETIONARY TO "DISCIPLINE" THE IMPORT MARKET, AND TO ENCOURAGE DOMESTIC INDUSTRIAL GROWTH ON A SECTOR-BY-SECTOR BASIS. BOTAFOGO STATED THAT NO GATT JUSTIFICATION FOR THESE ACTIVITIES WAS NEEDED. BRAZILIANS ALSO STATED THAT THE TREND WAS FOR THE IMPORT LICENSE SYSTEM TO BECOME LESS IMPORTANT. BOTAFOGO ADMITTED, HOWEVER, THAT IMPORT LICENSES FOR SOME PRODUCTS WERE TEMPORARILY SUSPENDED FOR BOP REASONS; TRADE COVERAGE

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OF THESE SUSPENSIONS HAD DROPPED FROM DOLS 580 M IN 1976 TO SOME DOLS 300 M AT PRESENT.

6. US CONCERN ON IMPORT LICENSE QUESTION, AS EXPRESSED BY AMB. WOLFF, BARRACLOUGH (STATE/EB), MONTGOMERY (USDOC) AND HARTZELL, WAS THAT TARIFF CONCESSIONS GRANTED BY BRAZIL THROUGH MTN EXERCISE NOT BE NEGATED AT SOME FUTURE TIME BY GOB REFUSAL TO GRANT IMPORT LICENSES. AMB. WOLFF SAID THAT A COMMITMENT BY BRAZIL THAT IMPORT LICENSES WOULD INDEED BE AUTOMATIC WOULD BE SEEN BY THE US AS AN IMPORTANT BRAZILIAN CONTRIBUTION. LANDE (STR) ASKED WHETHER US HAD ASSURANCE THAT SPECIAL LICENSING REQUIREMENTS WOULD NOT BE EXTENDED BEYOND THE CURRENT THREE PRODUCT SECTORS. BOTAGOGO REPLIED THAT NO EXTENSIONS WERE PRESENTLY CONTEMPLATED. HARTZELL POINTED OUT THAT ACCORDING TO GATT, IMPORT RESTRICTIONS WERE SUPPOSED TO BE APPLIED ACROSS-THE-BOARD, BUT THAT BRAZIL'S PRODUCT-BY-PRODUCT APPLICATION MADE IT DIFFICULT FOR US TO KNOW WHERE BRAZIL WAS GOING AND WHAT THE IMPACT WOULD BE ON PRODUCT-SPECIFIC MTN CONCESSIONS. AMB. WOLFF POINTED OUT THAT QUANTITATIVE RESTRICTIONS (SUCH AS BRAZILIAN EMBARGO ON LIGHT AIRCRAFT) MUST BE JUSTIFIED UNDER GATT. DISCUSSIONS ENDED AFTER AMB. WOLFF ASKED BRAZILIANS TO INDICATE AT NEXT MEETING JUST WHAT SITUATION EXISTED REGARDING IMPORT PERMITS FOR PRODUCTS ON US REQUEST LIST. HE ALSO ASKED FOR VERIFICATION OF BRAZILIAN TARIFF RATES US WAS USING TO CALCULATE ITS REQUESTS. BRAZILIANS SAID THEY WOULD DO SO. (EMBASSY COMMENT: GOB IMPORT LICENSES ARE NOT, IN FACT, AUTOMATIC, BUT USDEL CHOSE NOT TO PRESS THIS ISSUE BUT RATHER TO CONCENTRATE ON TARIFF CONCESSION/IMPORT LICENSE LINKAGE. END COMMENT.)

7. GATT REFORM. BRAZILIAN POSITION IN THIS AREA WAS LIMITED OFFICIAL USE

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LARGELY PRESENTED BY BARTHEL ROSA (BRAZDEL GENEVA) WHO EXPLAINED IN SOME DETAIL BRAZIL'S POSITION ON GATT REFORM. HE STARTED OFF BY SAYING THAT PROGRESS IN THIS AREA WOULD BE CRITICAL IN REGARD TO BRAZIL'S ASSESSMENT OF MTN FINAL RESULTS, AND HE SAID THAT HE FELT "WE WERE CLOSE TO A DRAFTING EXERCISE."

8. BARTHEL ROSA EMPHASIZED THE FIVE POINTS ON GATT REFORM BRAZIL REGARDED AS ESSENTIAL: (A) THE GENERAL ENABLING CLAUSE SHOULD ESTABLISH A STANDING LEGAL BASIS FOR S AND D WHICH WOULD BE NON-DISCRIMINATORY, COVER BOTH TARIFF AND NON-TARIFF MEASURES, INCLUDE GREATER GSP SECURITY, AND ACCEPTANCE OF NOTIFICATION AND CONSULTATIVE

FEATURES. (B) DC BOP MEASURES SHOULD IN GENERAL EXCLUDE LDCS, AND RECOGNIZE THE GENERAL BOP PROBLEM FACED BY LDCS. GATT CONSULTATION PROCEDURES SHOULD BE IMPROVED. (C) ECONOMIC DEVELOPMENT SAFEGUARDS UNDER ARTICLE XVIII: A AND C SHOULD HAVE MORE AMPLE LEGAL JUSTIFICATION (NOT LIMITED TO INFANT INDUSTRY). (D) DISPUTE MANAGEMENT MEASURES SHOULD INCLUDE EFFECTIVE NOTIFICATION PROCEDURES, FLEXIBLE BUT EFFECTIVE CONSULTATION PROCEDURES, THE INTRODUCTION OF SEMI-AUTOMATIC DISPUTE SETTLEMENT PROCEDURES, AND CLEAR IDENTIFICATION OF RIGHTS AND OBLIGATIONS OF PARTIES. (E) CONCEPT OF RECIPROCITY SHOULD INCLUDE A FIRMER DEFINITION OF THE PRINCIPLE OF RELATIVE RECIPROCITY AND GUIDELINES FOR ITS APPLICATION IN FUTURE NEGOTIATIONS.

9. AMB. WOLFF NOTED IMPORTANCE US ATTACHED TO EXPORT CONTROLS TOPIC ALSO, BUT DISCUSSION ON BARTHEL ROSA'S PRESENTATION CENTERED LARGELY ON THE AREAS OF THE ENABLING CLAUSE AND GSP. AMB. WOLFF STATED US POSITION THAT S AND D SHOULD NOT IMPEDE REDUCTION OF BARRIERS ON MFN BASIS AND THAT LDCS SHOULD PARTICIPATE MORE FULLY IN THE

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R 111525Z MAY 78
FM AMEMBASSY BRASILIA
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TRADING SYSTEM OVER TIME, I.E., FOREGO S AND D. HE QUESTIONED THE RELATIONSHIP OF THE ENABLING CLAUSE TO GSP. BARTHEL ROSA REPLIED THAT THE ENABLING CLAUSE WOULD REPLACE THE GSP WAIVER. QUESTIONING FROM LANDE ELICITED COMMENT FROM BARTHEL ROSA THAT BRAZIL IN CERTAIN CASES WOULD PREFER BOUND PREFERENTIAL CONCESSIONS TO UNILATERAL GSP DESIGNATIONS. THERE WAS DISCUSSION ON WHETHER GSP WOULD BE SUBJECT TO FUTURE MULTILATERAL REVIEWS (UNCTAD, GATT) IF IT WAS COVERED BY ENABLING CLAUSE. DURING INFORMAL CONVERSATION, BARTHEL ROSA STATED THAT HE DID NOT RULE OUT ENABLING CLAUSE WHERE GSP WOULD STILL BE MULTILATERALLY REVIEWED. LIMITED OFFICIAL USE

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IN FACT BARTHEL ROSA INDICATED THAT IN VIEW OF TIME FRAME, GSP RENEWAL ISSUE WOULD HAVE TO BE ADDRESSED IN 1981 WHEN TEN-YEAR PERIOD EXPIRES.

10. SUBSIDIES/CVD CODE. AMB. WOLFF STRESSED THAT THIS WAS ONE OF THE MOST IMPORTANT AREAS OF MTN, BUT ALSO THE MOST DIFFICULT SINCE THERE WAS LITTLE COMMON GROUND. HE GENERALLY DESCRIBED US "TWO-TRACK" APPROACH TO THIS ISSUE, ONE THAT WOULD ALLOW BOTH CVD WITH AN INJURY TEST AND ALSO ALLOW IMPORTING COUNTRIES TO TAKE ACTION EVEN WITHOUT INJURY FINDING ON BASIS OF NULLIFICATION/ IMPAIRMENT PROCEEDING. HE SAID US WAS ALSO CONCERNED ABOUT POSSIBLE EFFECT OF SUBSIDIES ON TARIFF BINDINGS AND DISRUPTION OF THIRD COUNTRY MARKETS. IN REGARD TO APPLICABILITY OF THIS CODE TO NON-SIGNATORIES, AMB. WOLFF STATED THAT US HAD NOT THOUGHT THIS THROUGH COMPLETELY, BUT THAT US THINKING WAS THAT CODE BENEFITS SHOULD ONLY APPLY TO CODE SIGNATORIES.

11. DORNELLES (GOB FINMIN) RESPONDED BY SAYING THAT BRAZIL'S INTEREST WAS NOT IN SUBSIDIES OR CVDS PER SE, BUT IN INCREASING EXPORTS, AND BRAZIL WANTED TO KEEP AS MUCH FREEDOM REGARDING SUBSIDIES AS POSSIBLE. KEY POINT FOR BRAZILIANS, ACCORDING TO DORNELLES, IS INJURY CLAUSE. HE NOTED THAT THERE SHOULD BE A POSITIVE LIST OF LDC SUBSIDY PRACTICES THAT WOULD NOT BE SUBJECT TO CVD ACTION, EVEN IF INJURY RESULTED IN THE IMPORTING MARKET. FOR OTHER SUBSIDIES IMPORTING COUNTRIES SHOULD BE ABLE TO COUNTERVAIL ONLY WHEN SERIOUS INJURY IS PROVEN. IN ADDITION, CVDS SHOULD NOT BE APPLIED AGAINST PRODUCTS ALREADY COVERED BY TRADE-RESTRICTING AGREEMENTS (I.E., MFA). NO ACTIONS SHOULD BE TAKEN BY DCS AGAINST LDCS FOR DAMAGE TO THIRD MARKETS, NOR SHOULD CVDS BE LIMITED OFFICIAL USE

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APPLIED FOR LDC ACTIONS TAKEN TO PROMOTE IMPORT
SUBSTITUTION. IN ALL CASES, PRIOR CONSULTATION WOULD BE
REQUIRED. (COMMENT: THIS CLOSELY FOLLOWS BRAZIL'S 1975
SUBSIDY/CVD PROPOSAL IN THE MTN. END COMENT.)
DORNELLES SAID THAT GATT RULES REQUIRE PROOF OF INJURY
BEFORE CVD CAN BE APPLIED, AND THAT ACCEPTANCE OF US
POSITION WOULD BE "A STEP BACKWARDS."

12. AMB. WOLFF REPLIED THAT OFFSETTING MEASURES COULD
BE APPLIED WITHOUT INJURY UNDER GATT ARTICLE XXIII.
WHAT WE NEEDED IN A CODE WAS NEW DISCIPLINE ON THE USE OF
SUBSIDIES TO AVOID TRADE PROBLEMS IN THE NEAR FUTURE.
BRAZIL MUST LOOK AT SUBSIDIES/CVD CODE IN LIGHT OF WHAT
FREEDOM IT WANTS TO KEEP AND WHAT OBLIGATIONS IT CAN
EXPECT TO ASSUME.

13. FOLLOWING DEPARTURE OF AMB. WOLFF FOR MEETING WITH
MINISTER OF INDUSTRY AND COMMERCE CALMON DE SAO, DISCUSSION
OF SUBSIDIES/CVD CODE CONTINUED FOR APPROXIMATELY ONE
HOUR. DORNELLES REITERATED GOB OBJECTIVE OF EXPANDING
AND DIVERSIFYING EXPORTS AND GOB DESIRE TO AVOID TO THE
EXTENT POSSIBLE ANY MODIFICATIONS IN EXISTING EXPORT
INCENTIVES. HE INSISTED ON NEED FOR AN INJURY TEST IN
ORDER TO BE CONSISTENT WITH GATT AND HE PRESSED FOR MORE
DETAILS ON US THINKING ON SUBSIDIES CODE. MESSRS. LANDE
HARTZELL, AND SCHOTT (TREASURY) EXPLAINED US DESIRE TO DEVELOP NEW
RULES AND DISCIPLINE ON SUBSIDIES. SCHOTT POINTED OUT
DIFFICULTIES WE HAVE HAD IN RESOLVING DIFFERENCES WITH
EEC AND DEFINING APPROPRIATE DEGREE OF OBLIGATIONS AND
COMMITMENTS TO BE UNDERTAKEN BY LDCS. MR. LANDE STRESSED
NEED FOR MOVING FROM EXTREME POSITIONS TOWARD PRAGMATIC
AND POLITICALLY ACCEPTABLE SOLUTIONS. MR. HARTZELL
OBSERVED THAT BRAZILIAN DESIRE FOR MAJOR CONCESSIONS
FROM US WOULD REQUIRE COMPENSATING STEPS BY BRAZIL

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R 111525Z MAY 78

FM AMEMBASSY BRASILIA
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TO UNDERTAKE SOME OBLIGATIONS IN A CODE. MR. DORNELLES
ASKED IF US COULD PRESENT DRAFT OF US POSITION AS BASIS
FOR DISCUSSION. AMB. WOLFF LATER RAISED THIS WITH
SIMONSEN (SEE SEPTTEL).

14. TIMETABLE AND NEGATIVE POLITICAL PRESSURE.
THROUGHOUT AFTERNOON DISCUSSION AMB. WOLFF AND OTHER
MEMBERS USDEL STRESSED THE NEED FOR MTN NEGOTIATIONS TO
PROCEED EXPEDITIOUSLY IN VIEW OF INCREASING NEGATIVE US
POLITICAL PRESSURE. WHEN BRAZILIANS ASKED WHY JULY 15
WAS SUCH AN IMPORTANT TARGET DATE FOR US, AMB. WOLFF
REPLIED THAT THAT WAS LATEST WE EXPECTED FINAL
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NEGOTIATIONS TO BE ABLE TO BEGIN AND LEAD TO A FINAL
RESULT THAT COULD BE PRESENTED TO CONGRESS IN EARLY 1979.
AMB. WOLFF CONTINUALLY WARNED THAT SUPPORT FOR TRADE
LIBERALIZATION WAS WANING RAPIDLY IN THE US AND THAT ANY
DELAY BEYOND EARLY 1979 IN SUBMISSION OF RESULTS TO
CONGRESS FOR RATIFICATION WOULD ENSURE ITS DEFEAT. HE
NOTED THE PARTICULAR SENSITIVITY IN THE US TO THE SUBSIDIES/
CVD ISSUE AND THE FEELING THAT THE US SHOULD "GET
SOMETHING" OUT OF THE MTN AND NOT JUST GIVE.

15. THIS MESSAGE CLEARED BY LANDE AND OTHER DELEGATION
MEMBERS BUT NOT BY AMB. WOLFF.
JOHNSON

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Message Attributes

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